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OF

THE LIFE AND SERVICES

OF

GEN. LEWIS CASE,

OF OHIO.



HARRISBURG,

January 9, 1843.



SKETCH

OF

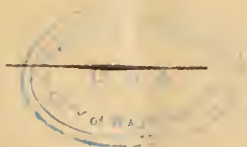
THE LIFE AND SERVICES

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LIFE AND SERVICES

OF

GENERAL LEWIS CASS.

The father of General Cass was a native of New Hampshire, who entered the army as a private soldier the day after the battle of Lexington, and remained in the service during the whole war, till the dissolution of the army. He rose successively through the grades of corporal, sergeant, ensign, and lieutenant, to be captain, and was in the battles of Bunker Hill, Long Island, Monmouth, Brandywine, Germantown, in the expedition of Sullivan, in the actions between Gates and Burgoyne, and at the Siege of Yoiktown.

After the organization of the new constitution, he was appointed a major in the western army, and served under St. Clair and Wayne, till the year 1800, when he resigned and retired to private life, upon the Muskingum, when he closed his useful and honorable career in the year 1830.

A just tribute to his merit was paid upon two public occasions by two of the most distinguished literary men, who do honor to our country. By Mr. Everett in his remarks at Boston, upon the occasion of the visit of General Jackson, and recently by Mr. Bancroft, in a lecture at Philadelphia, when this accomplished historian turned to General Cass, who was present, and in an extemporaneous and most happy allusion, brought to notice the character and patriotic services of his father.

His son, Lewis Cass, was born at Exeter, New Hampshire, where he was educated by a celebrated teacher, Doctor Abbot. At the age of seventeen he left that place and removed to Marietta, in the State of Ohio, where he studied law, and was admitted to the Bar, at the very close of the Territorial government. After being admitted, he practised law at Marietta, Chillicothe, Zanesville, and other places, till the year 1806, when he was elected a member of the Legislature.

He served during the eventful session, when the plans of Burr occupied so much of the public attention. There was a mystery about them which alarmed the general government exceedingly, and in fact, every man said to his neighbor, what is the object of all this, and who are engaged in it? Some thought the design was to sever the western from the Eastern States, and others that it was to take possession of New Orleans, seize the specie there, and push on to Mexico, to conquer that Kingdom. The alarm of Mr. Jefferson may be imagined from the fact, that he sent a special agent, Mr. Graham, to the Western States, to put himself in communication with the Executives and Legislatures, and to urge upon them the most prompt and vigilant measures for the defeat of the enterprise. Among other extraordinary powers granted upon this occasion was one to Mr. Tiffin, then Governor of Ohio, authorising him to remove "any postmaster west of the mountains, suspected of being unfriendly to the unity of this Republic."

A special message from the Governor to the Legislature, brought this matter before them—and Mr. Cass was placed upon the committee to which it was referred. This committee put themselves in communication with Mr. Graham and Mr. Cass, drafted a law, which authorised the Governor to call out the militia, and to arrest all persons engaged in any warlike enterprise. The promptness of the Legislature was met by the spirit of the public. Every where the armed force was in motion, and the enterprise was defeated and

broken up, and its leader and principal abettors worsted. We quote from a contemporary Journal the remarks of Mr. Cass upon the passage of the bill for the suppression of the conspiracy, delivered December 2d, 1806.

"Mr. Cass said, he was well aware that the provisions of the Bill now under consideration, were important and the penalties heavy, but that he could see a justification for supporting it, in the rumors which were now afloat—rumors, which threatened the peace and tranquility of the State.—Nay, rumors, which daily acquire new credit and additional confirmation, and which he believed were well founded. Shall we sit still, silent spectators, and not endeavor to prevent illegal steps being taken in this State? Grant that the provisions of the Bill and all we can do should prove to be unnecessary, still we ought to act. By common report, we are told, that great talents, treasure and enterprise are engaged in a scheme, which threatens ruin to the country—and he wished to see a law, such as the Bill before the House, immediately passed, for it could not be done too soon. Perhaps, while we are now debating, the plan may be carrying into effect. A plan, the means for effecting which, have no doubt been duly weighed by those at the head of it. He could not doubt for a moment but that the officer to whom the execution of the law was to be entrusted, would do his duty, and would not improperly use the power vested in him, and he therefore hoped the bill would pass."

The following address was also voted by the Legislature of Ohio to Mr. Jefferson. It was drafted by Mr. Cass, and serves to show the state of public sentiment at that time. The answer of Mr. Jefferson, evinces the high opinion which that venerated statesman formed of the zeal and energy of the executive, the legislature, and the people of that state.

CHILICOTHE, December 26, 1806.

"On Thursday last, Mr. Lewis Cass introduced the following resolution, which was agreed to, and passed both houses without one dissenting voice.

"Resolved unanimously, by the General Assembly of the State of Ohio, that the governor be requested to transmit to the President of the United States the following address.

To Thomas Jefferson, Esq., President of the United States.

"SIR,—At a time when the public mind, throughout the union, is agitated with alarming reports, respecting the existence and design of a party, hostile to the welfare and prosperity of the country, we deem it a duty incumbent on us to express to the executive of the union, our attachment to the government of the United States, and our confidence in its administration. Whatever may be the intentions of desperate and abandoned men, respecting the destruction of that constitution, which has raised us to our present elevated rank among the nations of the world, and which is our only security for the future, we trust they will find very few advocates in the State of Ohio. We express the feelings and opinions of our constituents, when we say, that no arts of intriguing men—no real or visionary prospects of advantage, will ever induce us to sever that bond of union, which is our only security against domestic violence and foreign invasion.

"Believing that the fundamental maxims of rational liberty have guided you in the administration of our government, we hesitate not to express our full and entire confidence in your counsels and conduct. Enjoying every blessing which, as men and as citizens, we could desire, and in a country fertile in nature's choicest gifts, we should deem it presumptuous indeed, to hazard by intestine dissensions, these incalculable advantages. We trust that public rumor has magnified the danger; but should the design in agitation be as destructive as represented, we have no doubt that all fear will shortly be dissipated before the indignation of our citizens. That you may long live to enjoy the confidence and attachment of the American people, is the sincere and unanimous wish of the Legislature of Ohio."

(*Reply of Mr. Jefferson to the Governor of Ohio.*)

WASHINGTON, February 2, 1807.

"SIR,—The pressing business during a session of the legislature, has rendered me more tardy in addressing you, than it was my wish to have been. That our fellow-citizens of the west, would only need to be informed of criminal machinations against the public safety, to crush them, at once, I never entertained a doubt.

"I have seen, with the greatest satisfaction, that among those who have distinguished themselves by their fidelity to their country, on the occasion of the enterprise of Mr. Burr, yourself and the Legislature of Ohio have been the most eminent; the promptitude and energy displayed by your state, has been as honourable to itself, as salutary to its sister states, and in declaring that you have deserved well of your country, I do but express the grateful sentiments of every fellow-citizen in it. The hand of the people has given a mortal blow to a conspiracy, which, in other countries, would have called for an appeal to arms, and has proven that government to be the strongest of which every man feels himself a part. It is a happy illustration, too, of the importance of preserving to the state authorities all the vigor which the constitution foresaw would be necessary, not only for their own safety, but for that of the whole.

In making these acknowledgments of the merits of having set this illustrious example of exertion for the common safety, I pray that they may be considered as addressed to yourself and the Legislature particularly, and generally to every citizen who has availed himself of the opportunity given, of proving his devotion to his country.

Accept my salutations and assurances of great consideration and esteem,
(Signed) THOMAS JEFFERSON."

His Excellency Gov. TIFFIN.

The succeeding year he was appointed by Mr. Jefferson, Marshall of Ohio. An incident connected with this appointment may be worth mentioning. Mr. Cass's predecessor was a distinguished man, of excellent character, with a clear head, and a good heart. Unfortunately, however, the conviviality of his temper led him to indulge too much in the use of ardent spirits. For this cause Mr. Jefferson was obliged to remove him, and he remarked, in the course of his discussion to which the matter gave rise, that the habit of intoxication had given him more trouble than any other cause, during his administration, and that were he to commence his Executive career again, the first question he would ask respecting any applicant for office, would be, if he were prone to the too free use of spirituous drinks.

Mr. Cass continued in the performance of the duties of Marshall, and also in the practice of the law for several years. During this time arose in Ohio, a question which was much agitated there, and greatly divided the public opinion. At this day it is difficult to estimate the degree of excitement which prevailed.

The point may now appear very strange, but it was then of vital interest.—A Superior Court made a decision on a Constitutional question, which the Legislature considered erroneous. The Judges were impeached upon the ground that they were responsible in this process for errors of opinion. Considering the doctrine a fatal one to public security and to true liberty, Mr. Cass volunteered in the defence of the Judges, and aided in their trial, which terminated their acquittal.

In 1812, came on the stirring events of war. It was forced upon us by the unportable arrogance and injustice of England, and General Cass fully participated in the conviction of the Democratic party that it was necessary; and upon the first call of the government for a volunteer force, to serve under General Hull, and to march to the defence of Detroit and of the Lake frontier, he tendered his services, and did all in his power to induce the young men of the

country to turn out. The appeal to the patriotism of Ohio was eminently successful, and three regiments of volunteers were raised. They were marched to Dayton, where they were organized, and Mr. Cass was elected Colonel of the third regiment. At the time he volunteered he held the commission of a Brigadier General in the militia of Ohio.

When General Hull encamped with his troops at Dayton, a hollow square was formed, and the American standard was pitched in the centre. Upon this occasion Colonel Cass delivered the following address, which is taken from the *National Intelligencer*.

*"Fellow Citizens:—*The standard of your country is displayed. You have rallied round it to defend her rights and to avenge her injuries. May it wave protection to our friends, and defiance to our enemies. And should we ever meet them in the hostile fields, I doubt not but that the Eagle of America will be found more than a match for the British Lion."

It is difficult, at this time of our peace and safety to form an adequate conception of the enthusiasm with which this short, but pithy address was received by the flower of the State, then under arms and about to enter upon an uncertain campaign.

The progress and result of the unfortunate expedition of General Hull fill a sad page in the history of our country. Never was an army composed of better or more spirited materials. They met all the untoward accidents of the campaign with untiring firmness. They consisted of three regiments of Ohio volunteers, commanded by Colonel McArthur, Cass, and Findley, and of the fourth regiment of the United States Infantry, commanded by the gallant and revered Colonel, now General Miller. The news of the declaration of war reached them in the wilderness, and they pushed on to Detroit, animated by the highest hopes. The Commander-in-Chief, General Hull, was authorised to invade Canada at his discretion. He determined to do so, and the embarkation was made from a point a little above Detroit, and the advanced force was composed of the regiments of Colonels Cass and Miller. Colonel Cass occupied the bow of one of his boats, and was the first man who landed in arms upon the Canadian shore, after the declaration of war. Immediately after the army landed in Canada, an expedition was organized under the command of Colonels Cass and Miller, to move towards the British Fort Malden, and to take possession of a bridge over the river Aux Canards, (Duck River,) which commanded the approach to it. By ascending this river some distance above the bridge, the stream was forded, and the British party at the bridge surprised. Here was shed the first blood in the late war. The party fled to Malden, and the American detachment took possession of the bridge. Here the two Colonels wrote a note to the General, urging upon him the necessity of an immediate movement of his whole force to join the advanced party, and to push on to the capture of the British Fort, which would have terminated the campaign by a glorious stroke that would have been felt through the whole course of the war, and would have ensured the submission of Upper Canada, and the peace of the whole north-western frontier. But, unfortunately, the commanding General was wholly incompetent to his post. On landing in Canada he issued an energetic Proclamation, written by Colonel Cass, which was much applauded at the time. But here, alas, General Hull's energy ceased, and the whole course of his campaign was marked on his part, by indecision and by imbecility, and was terminated by the most signal disaster which ever disgraced the American arms. As the engagement at the river Aux Canards was the first trial of strength during the last war, we subjoin Colonel Cass' official report, which is not without interest as an historical document.

Col. Cass to General Hull.

SANDWICH, UPPER CANADA, July 17, 1812.

"SIR,—In conformity with your instructions, I proceeded with a detachment of two hundred and fifty men, to reconnoitre the enemy's advanced posts.

We found them in possession of a bridge over the river Aux Canards, at the distance of four miles from Walden. After examining their position, I left one company of riflemen to conceal themselves near the bridge, and upon our appearance on the opposite side of the river to commence firing, in order to divert their attention, and to throw them into confusion. I then proceeded with the remainder of the force five miles, to a force over the river Canards, and down on the southern bank of that river. About sunset we arrived within sight of the enemy. Being entirely destitute of guides, we marched too near the bank of the river, and found our progress checked by a creek, which was then impassable. We were then compelled to march up a mile in order to effect a passage over the creek. This gave the enemy time to make their arrangements, and prepare for their defence. On coming down the creek, we found them formed; they commenced a distant fire of musketry. The riflemen of the detachment we aimed upon the wings, and the two companies of artillery in the centre. The men moved on with great spirit and alacrity. After the first discharge the British retreated—we continued advancing. Three times they formed, and as often retreated. We drove them about half a mile, when it became so dark, that we were obliged to relinquish the pursuit. Two privates of the British 41st regiment, were wounded and taken prisoners. We learn from deserters, that nine or ten were wounded, and some killed. We could give no precise information of the number opposed to us. It consisted of a considerable detachment of the 41st regiment, some militia, and a body of Indians. The guard at the bridge, consisted of fifty men. Our riflemen, stationed on this side of the river, discovered the enemy reinforcing them during the whole afternoon. There is no doubt, but their numbers considerably exceeded us. Lieutenant Colonel Miller conducted himself in the most spirited and able manner. I have every reason to be satisfied with the conduct of the whole detachment.

Very respectfully, sir,

I have the honor to be,

Your obedient servant,

(signed)

LEWIS CASS.

Colonel 3d regiment Ohio volunteers.

Brigadier General HULL.

On the day of the surrender, Colonel Cass was not at Detroit. He and Colonel M'Arthur had been detached with portions of their respective regiments, by an interior route to the river Raisin, to serve as a convoy to the provisions which were there. Upon the route, they received the astounding news, that the army was surrendered, and a letter from General Hull, informing them that they were included in the capitulation, and ordering their immediate return.

After this event, Colonel M'Arthur, who was the senior officer of the Ohio troops, as soon as they landed at Cleveland, ordered Colonel Cass to Washington, to render an account to the Government, of the unfortunate catastrophe, which filled the country with astonishment and indignation. On his arrival at Washington, Colonel Cass presented to the war department, his well known report, which has become an historical document, and which contained a narrative of the expedition, setting forth its prominent events, and the causes and circumstances of its result, by which, as the report said, the United States had "lost a fortified post, an army, and a territory." This paper was well received by the Government and the country.

As a curious episode in the history of the war, and as an indication of the bitter opposition with which the government was assailed, we may mention, that the rumor was immediately circulated and extensively credited, that Colonel Cass was incompetent to the preparation of his report, and that it was actually written by Mr. Rush, then the comptroller of the treasury, deservedly enjoying the confidence of the administration, and a zealous and active advo-

cate of the war. General Hull's conduct had inflicted a deep wound upon the honor of the country, and put in jeopardy her dearest interests. The report of Colonel Cass, fortified by the unanimous opinion of all his fellow soldiers, exonerated the administration from all blame, and placed the responsibility where it was due, upon the imbecile leader, whose incapacity, or worse than incapacity has led to the disastrous result. In their desire to bring to public odium and contempt, Mr. Madison and his cabinet, it became the object of the opponents of the war, to throw discredit upon all, whose testimony might serve to show that the Government was able and patriotic, and hence the report of the incapacity of Colonel Cass. The following letters, which appeared upon that occasion, are worth perusal.

From the National Intelligencer, transcribed into Niles' Register, of December 12, 1812.

To the Editors of the National Intelligencer.

GENTLEMEN,—I transmit you for publication, the enclosed letter, politely and without solicitation, addressed to me by Mr. Rush.

So far as respects myself, the tale it refutes merits no consideration, and would meet no attention. Whether I am incompetent to the task of relating plain facts, many of which I saw, and on all of which I have had the feelings and information of hundreds to guide me, is a question of no importance to the public and of no interest to those editors who have asserted or insinuated it. But it is deeply interesting to their passions and pursuits, that every account which tends to exonerate the Government from all participation in the event of an expedition feebly conducted, and in a capitulation dishonorably concluded, should be assailed openly and covertly. I was aware, that every man, who should attempt, by a disclosure of the truth, to communicate correct information, must expect to have his motives impugned and his character assailed, with all the rancor of malignity and eagerness of party. As I felt no disposition to covet, so I trust, there was no necessity for avoiding an investigation like that. I had witnessed the irritation of feeling, and the latitude of observation in many papers in the country.

The terms "conscripts," a "little still born army," and every injurious and opprobrious epithet, which party zeal could lavish upon western patriotism and enterprise I had observed with regret, but without surprise. But I had to learn, that the editor of a newspaper, upon his own responsibility, would propagate a tale so false and unqualified, as that in the United States Gazette, of ——— October last. The letter transmitted will show what credit is due to the assertions of men, who can discover little to condemn in an enemy's government, has to approve in their own.

I cannot resist the present opportunity of placing in its proper point of view, a transaction misrepresented with all the virulence of faction. The capitulation for the surrender of Detroit, contained no stipulations, allowing the commanding officer to forward to his government an account of the causes which produced, and of the circumstances which attended so unexpected an event. The commanding officer himself became an unconditioned prisoner of war. His liberation, or the intelligence he might communicate to his own Government depended on the interest or caprice of the enemy. In this situation, on the arrival of Colonel M'Arthur within the jurisdiction of the United States, he became the senior officer of those troops, which, by the capitulation, were permitted to return home, and, as such, it became a matter of duty to report himself to the Government, and of propriety, to communicate to them all the intelligence in his power. For this purpose, the second officer in command present, was ordered to repair to the seat of Government. On his arrival he found the rumor of the disaster had preceded him, and that information was anxiously and impatiently expected. Public report had informed the Government that they had lost a fort, an army, and a territory, but of the

remote or direct causes which occasioned it, of the situation of their own troops, or of the designs of the enemy, they were profoundly ignorant. Were they, in this situation fastidiously to reject proffered information, and continue willfully ignorant of a transaction so striking in its features, and so important in its consequences to the peace and character of the nation? Or were they not compelled by duty to seek every means of information, in order with promptitude to repair the evil, and with vigilance prevent the repetition of a similar one? Their duty surely cannot be mistaken by the most bigoted zealot of party. The act, then, of communicating intelligence and that of receiving it, was not merely neutral, but commendable. It was a duty over which the Government had no control. As the officer gave it, they must receive it, neither accountable for the manner nor the accuracy of his relation.

The question which has been so ably discussed, whether this statement is official; in itself a very clear one, will become important and interesting, when disputes about words shall again agitate the feelings and divide the opinions of the world. Until then it is cheerfully relinquished to those who have so learnedly investigated it.

That an officer, in his report must confine himself to those facts, which passed within his own observation, and to which he could testify in a court of justice, is among the moral and extraordinary pretensions to which this communication has given birth. Meagre, indeed, would be every similar statement, were such a principle correct in theory, or supported by practice. In a complicated transaction, it would present but a skeleton of a report, omitting many interesting details essential to a correct view of the subject, and necessary in the succession of facts, which connect causes with their consequences. It would require almost as many reports as there were actions, and instead of a faithful sketch by a single hand, a motley and discordant group of objects would meet the eye, exciting little interest, and conveying little information. But independently of any speculative views, which may be taken of the subject, it is sufficient to refer every candid and dispassionate observer to the reports of military transactions, which daily appear in our own and in other countries. The futility of the objection will at once be exposed, for it will be found that a report is seldom if ever made without violating this rule, for the first time applied as the standard to the statement of an officer of the most important military event, which had occurred for many years in the history of his country.

The propriety of publishing such a report, remains only to be investigated. In a Government formed on the power, and supported by the confidence of the people, the right of the public to receive information on all national transactions, is too clear to require support or to fear denial. Whether a battle be won or lost, whether the event be brilliant or disastrous, the duty of communicating and the right of claiming information, remain the same. Four weeks after the surrender of an important post, while the public mind is agitated and public expectation alive, the Government receive from an officer despatched by a senior officer within their jurisdiction and subject to their control, a statement of the circumstances which preceded and accompanied the transaction. Two weeks would have been sufficient for the commanding officer to have forwarded his despatches, had the capitulation conferred on him the right, or the enemy the favor of doing it immediately subsequent to the surrender. The Government had a right to conclude the privilege was refused him, or the duty omitted by him. That portion of the troops which by the capitulation, were to be conveyed to the United States, afforded a secure opportunity for this purpose. This having failed, it became uncertain at what period his communication would be received. Was the Government then to withhold the information they possessed, because that information attributed the failure of the expedition to its commanding officer? The character of the nation, the reputation of the Government and of every individual embarked in that expedition were involved in its issue. Was it of no

importance, by a correct disclosure of facts, to redeem the public character and feelings? Was it of no importance, by placing in a proper point of view, the features of the transaction, to show that the boasts of the enemy were as vain as their conquest was bloodless? To prove to our country, that her sons might yet be led on to battle, and perhaps to victory? The Government, too, had a reputation to lose. That reputation was eagerly assailed. The failure of the expedition was attributed to the want of preparation, and the measures respecting it were characterized as imbecile and ignorant. The forbearance demanded was far from being granted. So far as respects the commanding officer, the details of an unfortunate expedition must be shrouded in Delphi obscurity, and the public await in dubious suspense, the tedious process of military investigation. But every little nameless paper is at liberty to display its brilliant wit and sarcastic remarks, at the expense of those who planned and ordered the expedition. Their reputation awaits the result of no trial. They must be offered up, an expiatory sacrifice, upon the altar of public indignation. The contemplated investigation, which is ultimately to determine the respective measure of merit and of blame, here becomes unnecessary. Its result is anticipated with that confidence which ought only to be inspired by an accurate knowledge of the attendant circumstances. To require, in such a situation, a studious concealment of those facts which would enable the public correctly to appreciate the conduct of all, is to require a species of forbearance as little suited to the practice as the duties of life. I am aware that nothing which can be said upon this subject, will with many carry conviction, or produce acknowledgment. The most obvious considerations of reason and of justice will be overlooked. Such, in the conflicts of opinion and the collision of party, has always been the case. But truth will ultimately prevail, and the public will evidently be enabled correctly to estimate the conduct of all who have had any agency in a transaction so deeply interesting to their character and feelings.

LEWIS CASS.

November 20, 1812.

WASHINGTON, November 3d, 1812.

DEAR SIR,—It was not until after I had had the pleasure to see you, and for some time after you left Washington, that the foolish insinuation, which has appeared in some of the newspapers, of my having been concerned in writing the letter you addressed to the Secretary of War, first came to my ears; nor have I to this day, seen the insinuation in print.

I would have contradicted it at once, but that it seemed to me quite superfluous, and that it would be to confer a notice upon it which its idle character did not deserve. In what so strange an untruth could have originated, I am sure I know not; neither can I divest myself of embarrassment in thus troubling you with a line about it. I have not yet heard it said that I wrote the address you delivered to the volunteers of Ohio in the spring, before I had the pleasure to see, or to know you; and yet, it is certain, that I wrote as much of that as I did of your letter to the Secretary of War.

I sincerely hope your health has been re-established since you left Washington, and that to other causes of regret connected with your march to Detroit, there will not be added that of any permanent injury to your constitution. Believe me, dear sir, with great respect and esteem.

Your obedient servant,

RICHARD RUSH.

Col. CASS.

After making his report, Col. Cass returned to Ohio, where he spent a short time with his family, but in a few weeks he was exchanged and appointed, first a Colonel, then a Brigadier General in the United States Army.

The Government prepared with vigor to retrieve the honor of our arms, and the patriotism of Ohio was so much to be depended upon that it was resolved to raise the regiments of regular troops in that State, the 26th and 27th Regiments of Infantry. The raising and the organization of the first was committed to Gen. McArthur, and of the 27th to Gen. Cass. The appointment of all the officers (except the field officers) was intrusted to them, and such was the public feeling and the exertions used on the occasion, that both regiments were promptly raised and put in motion, and in the month of July, 1813, joined the command of Gen. Harrison, at Seneca. Here the army lay, employed in drilling, and in other necessary duties till the junction of the Kentucky Militia, under Governor Shelby, and the victory of Perry, upon Lake Erie, enabled Gen. Harrison to commence offensive operations. The army was transported to the Canadian shore, and the superintendence of the debarkation committed to General Cass and Commodore Elliott. This was executed in excellent order, and as the event proved, without opposition, though a severe struggle was expected at the time. From thence the army went in pursuit of Proctor, and overtook and defeated him in the decisive action at the Moravian Towns. Here Gen. Cass was present, but his proper command not having arrived, he volunteered to act as aid-de-camp to General Harrison, in association with Commodore Perry. He accompanied Col. Johnson's regiment in its charge upon the British line. Honorable mention was made by General Harrison in his report of the services of General Cass upon this occasion.

After the return of the army to Detroit, Gen. Harrison, with the larger portion of his force left that country, to operate against the enemy upon the Niagara border, and he left Gen. Cass in command of the north-western frontier, including the western district of Upper Canada, which had been subjugated. Here General Cass remained employed in the arduous duties of such an extensive command, and in a country surrounded by Indians, destitute of resources, and with the whole hostile population of the western district of Upper Canada to hold in submission. The destitution of the country can hardly be appreciated, but it may be in some measure comprehended by the fact, that even some of the troops were compelled, at one time, to resort to the precarious resource of fishing, as a means of subsistence. While employed in this service, Gen. Cass received the unsolicited appointment of Governor of the Territory of Michigan, and thus the civil organization of the country and its military defence devolved upon him.

He continued to execute these multiplied duties, till ordered by the Government to proceed to Albany, to attend the trial of General Hull, as a witness.

After this duty was terminated, Gen. Cass returned to Ohio, and considering it improper that such extensive military and civil powers should be vested in the same person, he resigned his commission in the army, but was required by the Government to take charge of the defence of the Territory as Governor. It is presumed there are persons now living at Detroit who may recollect that in 1814, such was the defenceless state of that country, that the Indians made incursions into the settlements, and within sight of the town where their guns were heard. The Government was very anxious to reinforce Gen. Brown upon the Niagara frontier, so that he could push his operations in that quarter, and therefore desired Gen. Cass to despatch to the aid of Gen. Brown, all the troops that could be spared from the defence of the country. So anxious was General Cass to promote the same object, and to comply with the pressing solicitations of Gen. Brown, who wrote to him on the subject, that he ordered almost his whole force down the lake, leaving, in fact, but twenty-seven men for the defence of Detroit. It is known that Gen. Brown, who was as just to others as he was brave and able, never forgot this proof of zeal, but mentioned it as a rare instance of devotion to the public good, by which local interest was risked for general interest. During this state of destitution

the hostile Indians were bold and enterprising. Their war parties scoured the inhabited parts of the Territory, and filled the country with dismay. Of course the duties and the responsibility of the officer charged with the superintendence of the general defence were greatly increased. The whole adult male population was called out, and among these skirmishes there was one within hearing of Detroit, when Indians were killed and scalps taken; and the nature of the service may be judged by the fact, that the servant of Gen. Cass, who wrote immediately behind him, had a personal rencontre with a powerful savage, who was killed. After a short time, however, this state of imminent danger was happily relieved, by the arrival of a mounted force from Ohio, under Gen. McArthur. But peace soon came to restore quiet to this harassed and exposed frontier, and the duties of peace succeeded to the cares and dangers of war. A new career was opened to Gen. Cass, in the performance of his executive functions, in organising and consolidating the Government of Michigan, and adopting its institution to its new condition. How well he succeeded in the discharge of the general duties which devolved upon him as Governor, is satisfactorily proved by the high estimation in which he has ever been held by the citizens of Michigan; and by the fact, probably without a parallel in our country, that he was seven times appointed Governor of the Territory, exercising the duties of that office through a period of eighteen years, without one single representation having been made against him, and, it is believed, without ever having had a vote against him in the Senate. When we look at the heart-burnings and contentions which have marked the history of the Governments of the Territories, this absence of all blame is itself the very highest praise, and indicates a rare aptitude for the management of public affairs.

It is known that the Governors of Territories are ex officio superintendents of Indian affairs, and they are appointed to hold councils and make treaties with the Indians when necessary. The duties of Gen. Cass, as superintendent were arduous and responsible, from the number of Indians under his jurisdiction, and from the continual intercourse with the British Indian Department, at Amherstburg, by which they were kept in a perpetual state of excitement.

As Commissioner, Gen. Cass has held more councils with the Indian tribes than any other officer in the service of the United States. We have taken pains to turn over the volume of Indian treaties, published by the War Department, and find that Gen. Cass has been a commissioner in the negotiation of twenty-one treaties with the Indians, to-wit:

| | | | | | |
|-----------------------------|---|---|---|---|------|
| Two Treaties of Greenville, | - | - | - | - | 1814 |
| Miami Treaties, | - | - | - | - | 1817 |
| St. Mary, | - | - | - | - | 1818 |
| Wea, | - | - | - | - | 1818 |
| Potawatamie, | - | - | - | - | 1818 |
| Delaware, | - | - | - | - | 1818 |
| Miami, | - | - | - | - | 1818 |
| Saginaw, | - | - | - | - | 1819 |
| Michillimachinac, | - | - | - | - | 1820 |
| Chicago, | - | - | - | - | 1821 |
| Salt St. Marie, | - | - | - | - | 1820 |
| Prairie du Chien, | - | - | - | - | 1825 |
| Fond du Lac, | - | - | - | - | 1826 |
| Potawatamie, | - | - | - | - | 1826 |
| Miami, | - | - | - | - | 1826 |
| Batte des Morts, | - | - | - | - | 1827 |
| Green Bay, | - | - | - | - | 1828 |
| Potawatamies, | - | - | - | - | 1828 |
| Creek Treaty of Washington, | - | - | - | - | 1832 |

The first of these treaties was the second treaty of peace concluded at Greenville. That place was the site where was held the great Council between the North Western Indians and General Wayne, in 1795, which put an end to the hostilities that had been so long and so bitterly waged by those Indians against the United States. In 1814 the same ground was again consecrated to the same happy purpose, and treaties of peace was concluded, which detached several of the most war-like tribes from the British interest. At the first treaty of peace, General Harrison was present as an Aid de Camp of General Wayne. At the second, he was present as a Commissioner, Governor Shelby and General Cass being associated with him. Governor Shelby, however, was unable to attend. Some of the above mentioned treaties were held for the purpose of terminating hostilities between the whites and the Indians, some to put a stop to the wars of the Indians among themselves, and others to obtain cessions of lands for the United States. As a Commissioner for making treaties for the latter purpose, Gen. Cass has obtained the grant of more valuable and extensive districts lying in the State of Georgia, Alabama, Ohio, Indiana, Illinois, Michigan, and in the Territories of Wisconsin and Iowa, than have been obtained by any other person. These excursions into the Indian country, and these personal communications with the Indians, were necessarily attended with great fatigue and danger. Twice upon these duties General Cass has visited the extremity of Lake Superior, and once the heads of the Mississippi. Frequently he has been called to the countries upon Lake Huron and Michigan, and twice to Prairie du Chien. He has traversed the country north of the Ohio, and east of the Mississippi, in almost all directions, and frequently under dangerous circumstances. While ascending the Fox river, in one of his journeys in the western wilds, to ascertain the designs of the Indians who had given some cause to doubt their fidelity, they suddenly broke out into open hostilities, and in this crisis he found himself in a birch canoe, depending only upon his own resources, and the good conduct of his crew. At one of the Indian encampments on the banks of the Wisconsin, a large body of the natives was collected as the canoe was passing down. But one reasonable chance of success presented itself, and that was to land in the midst of the Indians, and to endeavor to over awe, by appearing to disregard them. The flag of the United States was flying upon the canoe, which was turned to the land. Gen. Cass leaped ashore, leaving the crew on board, and was received by the assembled warriors upon the beach.

Some of them knew who he was, and communicated the fact to the others. They went to the camps together, where their pipes were lighted and smoked, and where Gen. Cass stated to them his confident hope that they would not swerve from their duty to the United States. After some time spent in debate, he moved towards the canoe, when one of the young men took aim at him with his rifle. The gun snapped, and the weapon was immediately seized by an old chief, who was not prepared for such an extremity. General Cass regained his boat without farther difficulty, and continued his journey down the river. Arriving at Prairie des Chiens, he found the inhabitants in alarm, and the place was undefended. After putting every thing in the best possible condition, he descended the Mississippi, paddling day and night till he reached St. Louis, in order to use his influence to have a sufficient force for the defence of the upper country immediately detached upon the service. This was happily done without delay, and peace was soon restored to the frontiers. He returned in his canoe by the Illinois river, to Chicago, and thence to Green Bay, in as short a space of time as that voyage was ever performed.

Another incident, showing the danger of these border duties, is related by Mr. Schoolcraft, in his narrative of the expedition of Gen. Cass to the heads of the Mississippi. At the Sault St Mary, the outlet of Lake Superior, he had been ordered by the Government to endeavor to procure a cession of land for the establishment of a military post. The power of the United States had not been established in that quarter, and the Indians were exclusively under Brit-

ish influence. They were, however, invited to attend a council, where the subject was opened to them. Their disposition was manifestly unfriendly, and the American party was upon its guard. Their whole force, however, including a small military detachment which accompanied it, the engagès and boatmen, did not probably exceed thirty or forty men, while that of the Indians more than trippled this number. During the progress of affairs, a bold, turbulent Chipewa chief, well known for his hatred to the Americans, and for his attachment to the British interests, hoisted the British flag in the Indian camp, situated within our boundary. This daring act, intended to push matters to extremity, could be met but in one way, and that was to haul it down, let whatever might be the consequences. Were this not done, the honor and safety of the party were gone. Gen. Cass happily took one of these bold and decisive steps which, in moments of peril, are the safest. He ordered the American party under arms, and while this order was executing, he walked across to the Indian camp, and going up to the lodge of the hostile Chief, he tore down the flag and put his foot upon it. He was attended only by his interpreter, who explained to them, by his directions, the audacity of the steps they had taken and his determination under any circumstances to prevent and punish such conduct. The reproof was received in silence, and the party jumped into their canoes and paddled over to the Canadian shore. After a while, however, they returned, and business was resumed, and, ultimately, the desired arrangement was made.

In 1831, General Cass was called to the administration of the War Department, by Gen. Jackson. As the period, during which he presided there is near, it is not necessary to go into a review of the principles and measures he adopted. A few points, however, of general and permanent interest, are worthy of a passing attention. Among these were two questions of vital importance to the country, and involving the fundamental principles of the constitution for discussion. In their progress, they cast upon the government a heavy responsibility, and great trouble and labor, and were watched with a jealous solicitude by the whole community, which was divided in opinion respecting the points involved in their solution. Happily, by the wisdom and firmness of the patriot then at the head of the government, and by the good sense of the nation, they passed away, without leaving behind them any effects injurious to our institutions. These controverted subjects are the questions, which arose in Georgia, respecting the relative rights of the Indians and of the States, within whose jurisdiction they live, and that which arose in South Carolina, respecting the power of the State Legislatures to nullify an act of Congress.

The measures which were called for by the Indian question belonged exclusively to the War Department, and to that department belonged also such measures as the necessary application of force by the army and militia in defence of the laws and the constitution might render necessary. How critical and delicate, the practical solution of questions of this nature is rendered by the mixed principles of our government, is evident to the most careless observer. They are questions of constitutional right, the propositions on each side, separated by a boundary, not always well defined, and liable therefore to be construed most favorably to the views and position of the respective parties. It is not difficult to conceive cases of such a flagrant abuse of its powers by the general Government, as to call upon every man attached to the constitution of his country, and who believes that the existence of the State Governments, in all their just authority, is essential to the preservation of our freedom, to interpose with counsel and action, to preserve the balance of the constitution.— And on the other hand, it is not difficult to foresee cases which may happen when the action of the general government, while within the clear and legitimate exercises of its duties, may be impeded by sectional views. No man can fix a precise boundary to the mutual right of interference, and define, with practical exactness, where opposition is legal, and where it becomes illegal, any more than he can draw a precise line between day and night, between inter-

mingling colors, or between a countless number of subjects, material and immaterial when the lines of difference are intangible. All this must be settled as the subjects arise for decision, and fortunately there is such a redeeming power in the public opinion of our country, that it has never yet failed, and we trust never will fail to bring to a happy and peaceful issue any differences of opinion between the general and State governments of this confederation.

The Indian question during the period of General Cass' administration of the War Department assumed a most alarming aspect. The political difficulties which accompanied it, were greatly increased by a decision of the Supreme Court, that confirmed the Cherokees in the opinion they had formed of their independence of the State authorities. Believing that the principles of this decision were erroneous, and that their practical application would be fraught with the most dangerous consequences, a temporary review of the whole subject was published in the *Globe* of March 31, 1834, and filled one half of that paper. As Gen. Cass was well known to the author of this examination, it immediately attracted general attention, and while it was highly approved by all, who took similar views of the questions, it was generally admitted to be unexceptionable in the manner in which the investigation was pursued. It was perfectly understood that previously to the publication, it was submitted to Gen. Jackson and his Cabinet, and that it met their entire approbation. Indeed it may be considered as an authoritative exposition of the views of the Administration upon the subjects involved in the general inquiry.

This paper thus commenced:—"It must be consolatory to every American, and in fact to all, wherever they may be, who regard with anxiety the progress and prospects of free principles through the world, that there is a sanatory influence in our institutions, which if it cannot prevent, can heal without difficulty or danger those maladies, to which all public bodies are from time to time liable. In looking back upon the history of our career and prosperity, and the generation has not yet disappeared which laid the foundations of both; many *questiones veratæ*, appear, each of which agitated the community in its own brief day, and some of which, either from the magnitude of the interests involved, or from the excitement that prevailed, threatened the most serious consequences to the stability of the government, and the prosperity of the country. But by the favor of Providence one after another of these have passed away, leaving our Union and institutions unscathed. The present day is not without its own share of doubtful and difficult questions. Let us hope that they will be discussed in a spirit of forbearance and arranged in a spirit of mutual accommodation. Our national motto should remind us that we have become one from many; and if the blessings which this union has produced are to be perpetuated, we must seek in a sense of interest and safety, and in a feeling of patriotism, the true power of cohesion.

"Upon the virtue and intelligence of the people we must rely in our seasons of danger. They have thus far been the ark of safety. It were presumptuous to doubt, that they will be most efficacious, when they may be most wanted."

The question is thus stated, "without narrowing the controversy to a single point. We understand it in general terms to be this. Has the State of Georgia a right to extend her laws over the Cherokee lands, within her boundaries? The consideration of this subject will lead to the investigation of those principles of intercourse, which have been established between civilized and barbarous men, and to a retrospect of the practice and possessions of the different nations who have planted colonies in America."

An historical and political examination of the whole subject then follows, which concludes by this summary. First, that civilized communities have a right to take possession of a country, inhabited by barbarous tribes, to assume jurisdiction over them, and to "combine within narrow limits," or, in other words to appropriate to their own use such portion of the Territory, as they think proper. Second, that in the exercise of this right, such communities

are the judges of the extent of jurisdiction to be assumed, and of Territory to be acquired."

After this summary comes the question, whether this controlling authority resides by the Constitution of the United States in the general Government, or in the respective State Governments, within whose jurisdiction the Indians live. It is remarked that in "the solution of this question the Indians have no concern. These rights, whatever they may be, whether natural or conventional, are wholly independent of this inquiry. It is one which affects the parties to our own Government, and is to be decided by the constitution which they have established. And whether that portion of sovereign power which regulates the rights and duties of the united body itself, the relation which the two parties bear to one another will remain unchanged."

It may be observed in the investigation of this subject, that this attribute of authority belonged to the several States, and still belongs to them, unless they have ceded it to the general Government. In the constitution of the latter, therefore, this evidence of cession must be found, before the power itself can be exercised."

The writer then proceeds to make this inquiry, and after an elaborate examination of the subject, concludes that the relations of the general Government with the various Indian tribes, living within the boundaries of the States, do not extend to prevent the legislatures from subjecting those Indians, when they please, to the operation of the laws of such States. In the previous discussion we have confined ourselves to the question of right, avoiding all those considerations, which render it expedient that the Indians should remove to the country west of the Mississippi, assigned for their permanent residence. No false philanthropy should induce us to wish their continuance in the positions they now occupy. The decree has gone forth; it is irreversible, that the white and the red man cannot live together. He who runs may read. He may read it in the past and in the present, and he may discern it in the signs of the future, without attempting to investigate the causes, moral or physical, which have enacted this law of stern necessity, it is enough for our present purposes to know that it exists, and to feel that its penalty is destructive to one of these parties; a penalty only to be avoided by migration beyond the sphere of its influence. The longer this salutary measure is delayed, the greater will be the injury to them. Their state of excitement and uneasiness will continue, the collisions and difficulties with their white neighbors will multiply, and surrounded, as they must be, with disheartening troubles, their prospects may be wrecked in this hopeless conflict. Had they not better go, and speedily? Go to a climate which is salubrious, to a country fertile and extensive, beyond their wants now and for generations to come; and to a home which promises comfort and permanence.

The first report made from the War Department, after General Cass' accession to it, laid down the principles of its administration upon this subject, in conformity with the views above quoted. This report is dated November 21, 1831, and in it the following sentiments are expressed: "That we may neither deceive ourselves nor the Indian, it becomes us to examine the actual state of things, and to view them as they are, and as they are likely to be. Looking at the circumstances, attending this claim of exemption on the one side, and of supremacy on the other, is it probable that the Indians can succeed in the establishment of their pretensions? The nature of the question, doubtful to say the least of it; the opinion of the Executive; the practice of older States, and the claims of younger ones; the difficulties which must attend the introduction into our system of a third government, complicated in its relations, and indefinite in its principles; public sentiment naturally opposed to any reduction of territorial extent or of political power, and the obvious difficulties insuperable from the consideration of such a great political question with regard to the tribunal and the trial, the judgment and the powers, present obstacles which must be overcome before this claim can be enforced." The

whole country knows the result of the controversy. By the firmness and moderation of the Government, its at first alarming features gradually disappeared. Measures were taken for the removal of the Indians, and for their comfortable establishment in the West, in a far happier position; and the State of Georgia found its rights vindicated, and its legislative authority extended over all persons, of whatever color or condition, residing within its chartered boundaries. State Rights and Federal Rights were happily brought into unison, and the satisfaction of the Legislature of Georgia at the conduct of the War Department, acting under the orders of the President, in this delicate matter, is evinced by the high compliment paid to the Secretary, in giving his name to a county.

Far more portentous in its aspect at one period, was the South Carolina controversy. Its origin, progress and termination, as well as the principles involved in it, are now matters of history, to be studied for good or for evil, as a mutual spirit of forbearance may hereafter animate the confederated Government and its component parts. Every true American will pray that such an issue may never again be presented to his country to try.

The view which General Jackson took of the constitutional rights of the parties, and of his own duties, is well known to the whole Union, and is too fresh in the recollection of all to need any recapitulation here. It is understood that he had the unanimous support of his cabinet in the trying circumstances in which he was placed. His celebrated proclamation contained the avowal of his sentiments. With his habitual frankness, he laid before the people in that paper what he thought to be the principles involved in the controversy, and what he thought he ought to do. It was hastily prepared, for the circumstances were alarming, and events were pushing on to their consummation. Some of its views were misconstrued, and it was represented to contain sentiments destructive of State Rights. But such was not the case. General Jackson was as sincerely attached to the just rights of the States as any man in the country, and looked to their constitutional action as one of the great safeguards of public liberty. The proclamation was much criticised, but when the proper explanations through the press was given, it met with as general approval as almost any State paper which ever emanated from our Government.

During the crisis of this affair the administration had two great duties to perform. One was to support the constitutional rights of the General Government at all hazards; and the other, so to shape its measures, as to bring the affair to a fortunate issue, without the actual collision of the parties. While, therefore, the Departments, acting under the orders of General Jackson, were firm in their preparation, and in their resolution to sacrifice nothing which ought to be maintained, they were, at the same time, moderate and conciliatory in their tone, and urging upon their subordinate officers the necessity of their utmost discretion. It is not believed that any objection was ever made to the mode in which these duties were performed. It was rumored at one time, that orders had been given to resist the constituted authorities of South Carolina, and, in order to ascertain the true state of the facts, a call was made by the Senate upon the President for copies of the military orders which had been issued. In complying with this call, and with a specific branch of it, the President replied, that "no order has at any time been given to resist the constituted authorities of the State of South Carolina within the chartered limits of said State."

The copies of the military orders disclose at once the prudence and moderation of the Government. The confidential instructions to General Scott were submitted to Congress, and, as they were never assailed, it is to be presumed they met with general approbation. Certainly it will not be contended that there was the slightest attempt to interfere with the legal rights, or with the dignity of the State of South Carolina, and thereby to bring odium upon the State Governments.

We shall submit some short extracts from the documents, by which the cautious forbearance of the Department of War, may be judged.

(*Confidential.*)

WASHINGTON, November 18, 1832.

Sir—The state of affairs in South Carolina has occasioned much solicitude to the President. He indulges the hope that the intelligence and patriotism of the citizens will prevent any infraction of the constitution and laws of the General Government. But while he anxiously looks for this result, he deems it possible, from the information he has received, that, in the first effervescence of feeling, some rash attempt may be made by individuals to take possession of the forts and harbor of Charleston. The possibility of such a measure furnishes a sufficient reason for guarding against it, and the President is therefore anxious that the situation and means of defence of these fortifications should be inspected by an officer of experience, who could also estimate and provide for any dangers to which they may be exposed. &c.

Your duty will be one of great importance, and of great delicacy. You will consult fully and freely with the collector of the port of Charleston, and with the District Attorney of South Carolina; and you will take no step, except what relates to the immediate defence and security of the posts, without their advice and concurrence. The execution of the laws will be enforced through the civil authority, and by the mode pointed out by the acts of Congress. Should, unfortunately, a crisis arise, when the ordinary power, in the hands of the civil officers shall not be sufficient for this purpose, the President will determine the course to be taken, and the measures to be adopted. Till, therefore, you are otherwise instructed, you will act in obedience to the legal requisitions of the proper civil officers of the United States.

(Signed)

LEWIS CASS.

Major General Scott.

(*Confidential.*)

DEPARTMENT OF WAR, }
WASHINGTON, December 3, 1832. }

Sir,—Your letter of the 27th ult., has been received and laid before the President. He is pleased at the discretion and judgment manifested by you.

The course of the government will be regulated by the principles stated, in the personal interview I had with you. I cannot but hope the good sense and patriotism of the citizens of South Carolina, will still prevent the occurrence of those consequences which must result from the attempt to enforce the ordinance recently passed by the convention of that state. In any event, the President will perform his duty, and only his duty, under the constitution and laws of the United States.

(Signed)

LEWIS CASS.

Major General Scott.

(*Confidential.*)

DEPARTMENT OF WAR, }
January 26, 1832. }

(Extracts.)

"All your despatches have been communicated to the President, and your general views and proceedings have been approved by him. The three orders, to which you especially refer, I shall briefly advert to.

It is the most earnest wish of the President, that the present unhappy difficulties in South Carolina, should be terminated without any forcible collision, and it is his determination, if such collision does occur, it shall not be justly imputable to the United States. He is, therefore, desirous that, in all your proceedings, while you execute your duty firmly, you act with as much dis-

cietion and moderation as possible, and this course he has never doubted you will adopt.

Self-defence is a right as much belonging to military bodies as to individuals; and officers commanding separate posts are responsible, at all times, for their defence, and are bound to use due precaution to avoid danger. If a body of men approach Sullivan's Island, with apparently hostile views, it will be proper to pursue the course indicated by you to Colonel Bankhead, that is, to warn their commanding officer to retire, and to inform him of the course which you will be compelled to adopt, in the event of his continued approach. Should this warning be ineffectual, and the armed body attempt to land, you will be justified in resisting such attempt. But, before this unfortunate alternative is resorted to, I rely upon your patriotism and discretion to endeavor, by all reasonable and peaceable means, to induce any such armed body to abandon their enterprise. The subject is committed to you, in the full conviction, that while you discharge your duty as an officer, you will be mindful of the great delicacy of the subject, and of the anxiety of the President to avoid, if possible, a resort to force. But whatever the just rights of self-defence require, must be done, should a case occur involving such a question.

(Signed)

LEWIS CASS.

Major General Scott.

It is easy to deduce from these documents, the principles of action of the Administration.

1st. An unshaken determination to enforce the constitution and laws of the United States.

2d. An earnest anxiety to avoid a collision.

3d. An injunction upon the military officers to act solely upon the defensive.

4th. Proper directions to them to use all means of conciliation.

5th. An annunciation that the measures to be adopted, should the controversy be pushed to a collision, would be determined by the President upon a view of the whole circumstances, and that, till his orders were communicated, the military power was to act solely upon the defensive.

It is difficult to conceive how more moderation could have been used, or more respect displayed towards the authorities of South Carolina, than were shown in this correspondence. The most zealous asserter of State rights could ask no more. Happily the threatening storm passed away, and left us a united people.

There was another subject during General Cass' administration of the War Department, which threatened, at one time, to bring the general Government into collision with the authorities of the State of Alabama. But the same moderation and firmness in the head of the Government, produced the same favorable result as in the preceding cases. A treaty had been made with the Creek Indians, which guaranteed to them that intruders should be kept from the ceded territory till the Indians could remove from it. Emigrants, however, pushed in and covered the country. Under the act of Congress, of March 3d, 1809, and in conformity with the provisions of the treaty, it became necessary to remove them, and orders to that effect were given. Against this course, Governor Gazle, the Governor of Alabama, remonstrated. We shall extract a few passages from the answer of the Secretary of War, dated October 22d, 1833, and taken from the Congressional documents.

"The right of the State of Alabama to extend its jurisdiction over the district in question, is fully admitted. The President does not claim, on behalf of the United States, any right of jurisdiction, except such as is every where vested by the Constitution in the general Government. The ownership of the land, and the authority to legislate over it, for the ordinary purposes of

life, embrace powers entirely distinct in themselves, and which, in this case, must be exercised by different tribunals. The United States constitute a great landholder, possessing, under the Constitution, the right to "make all needful rules and regulations concerning their territory and other property." They have made a regulation by which intruders upon their lands shall be removed, under the orders of the President, by a military force. In doing this, they do no more than an ordinary individual, who repels the forcible intruder, who comes to take possession of his house and land. Such an individual, by the act of expulsion, exercises an authority acknowledged to be in him.

"But he exercises no act of jurisdiction. He performs none of those functions of supreme authority, included in the very term itself, and essential to the prerogative of dictating what the law shall be. In like manner, the United States, while removing the settler beyond the boundary of their possessions, assume no other control over him, and leave him to the ordinary operation of the State laws.

"It cannot be denied, but that the removal of the settlers from the ceded territory, will be attended with much inconvenience, and I sincerely wish the necessity of the measure could be obviated. And so far as this can be done, by a vigorous prosecution of the business of location, no means in the power of the department will be spared to effect it; and its execution will leave the settlers in the same condition as all other persons are placed, who occupy the public lands, where there are no treaty stipulations requiring their eviction.

"But, while I acknowledge and lament this inconvenience, I cannot admit that the arguments derived from it can outweigh the positive requisitions of a solemn covenant, under which the United States acquired, and by virtue of which they hold the district in question, and which formed one of the principal inducements operating upon the Indians, to make the cession.

"Your Excellency deprecates the employment of a military force in the removal of intruders, and you demand that the government should "put away the sword, which has been unnecessarily and too hastily drawn against this large and unoffending community." It is, as you remark, the appropriate arbiter in contests of ambition, but not in questions of constitutional right. Certainly questions of right, whether constitutional or otherwise, ought never to be decided by the sword; and the spirit of our countrymen, as well as the genius of our institutions, is opposed to its employment in all cases within the ordinary operation of the laws; and the military force now in Alabama has no instructions to interfere with the authority of the State. The following extract of a letter to the Marshal of Alabama, in answer to an application from him, will show how cautious the government have been upon the subject.

"I have received your letter of the 3d instant, and, in answer, have to inform you that you will submit to any legal process which may be issued against you. Your duty consists in removing from the ceded territory the intruders who have taken possession of it in violation of the law and the stipulations of the Creek Treaty of 1832. In executing this duty, you will employ all the necessary means placed at your disposal by the particular instructions of the government, or by the general provisions of the acts of Congress. Though the President cannot but hope, that, on a full view of the obligations of the United States, and the entire want of title on the part of the persons living in this district of country, they will peaceably remove within the period limited by you. If suits are instituted against you in any of the State Courts for your proceedings in this matter, submit to the process without hesitation. Interpose not the slightest obstacle to its service."

"The United States claim no special jurisdiction over the inhabitants of the ceded territory. They only claim the right to remove them from the public land they occupy. The District Attorney will be instructed to remove to the Courts of the United States, whenever it can be legally done, all suits instituted against you on this account, and there to conduct your defence; or, if necessary, you will remove them yourself. He will be likewise instructed to

defend you in the State Courts in those suits, if any there may be, which cannot be removed into the Courts of the United States.”

“ Force must often be employed in the execution of any law, and it must be ready to be employed in all laws, if their obligations are to be respected.— There are two cases in which the National Legislature have authorised its use in enforcing their acts. These are, by virtue of the act of March 30, 1802, where instructions are made upon Indian lands not within the ordinary jurisdiction of any State; and by virtue of the act of March 3d, 1807, where intrusions are made upon the public lands. It does not become me to say whether Congress have been right or wrong in making these provisions. It is enough for the justification of the Executive, that they are found upon the statute books, and that their general obligation is not disputed. The authority which enacted, can alone repeal them.”

(Signed)

LEWIS CASS.

Extract of a Letter to Major McIntosh.

DEPARTMENT OF WAR, }
October 29, 1833 }

SIR:—Your letter of the 21st instant, to General Macomb, has been laid before me, and, in answer, I have to inform you that you will interpose no obstacle to the service of legal process upon any officer or soldier under your command, whether issuing from the Courts of the State of Alabama, or of the United States. On the contrary, you will give all necessary facilities to the execution of such process.

It is not the intention of the President that any part of the military force of the United States should be brought into collision with the civil authority. In all questions of jurisdiction, it is the duty of the former to submit to the latter, and no considerations must interfere with that duty. If therefore, an officer of the State, or of the United States, come with legal process against yourself, or any officer or soldier of your garrison, you will freely admit him within your posts, and allow him to execute his writ undisturbed.

(Signed)

LEWIS CASS.

Extract of a Letter to F. B. Key, Esq.

DEPARTMENT OF WAR, }
October 31, 1833 }

“ Let all legal process, whether from the Courts of the United States, or from those of the State of Alabama, be submitted to without resistance, and without hesitation. The supremacy of the civil, over the military, authority is one of the great features of our institutions, and one of the bulwarks of the Constitution.”

(Signed)

LEWIS CASS.

These extracts will convey an idea of the alarming tendency of the controversy, as well as the policy and principles of the Department of War. Wise and moderate counsels prevailed. The Indians left the country as soon as the necessary preparations were made, and, in the meantime, their just rights were protected, and all collision avoided. A jealous regard was shown for the honor of the State of Alabama, and her Constitution and laws were respected and obeyed.

In 1836, General Cass quit the department of war. It is well known that he enjoyed the full confidence of General Jackson, who was anxious he should retain his seat in the cabinet, till the expiration of the administration. But his health having been broken down by his official labors, he could not remain, and he retired, with the decisive proofs of the good feeling and satisfaction of the President. One was a warm letter, thanking him for his ser-

vices, and expressive of the kindest sentiments towards him personally, and the other was the mission to France, to which he was appointed. During his residence at Paris, arose the question of the quintuple treaty, one of the most portentuous subjects which has ever threatened our honor or interest. England, from professed philanthropic, but from really interested motives, was seeking to establish a new principle of maritime police, by which she could search the vessels of all nations traversing the ocean. By persevering efforts, she had obtained separate treaties with various powers of Europe, some great and some small, for nothing is too high or too low for human ambition, by which the right of search was granted. She then said, through her secretaries, Lord Palmerston and Lord Aberdeen, that as she could not execute these treaties without searching the vessels of all nations, to ascertain to which they belonged, she should assume that right, and stop and board the vessels of the United States wherever they might be found. And to give more moral weight to her pretensions, she projected another treaty with the four great powers of Europe, embracing in it the right of search, and intended to make it the law of the ocean. The treaty was signed before public attention was much turned to it, but fortunately it was not ratified, and it was of vital importance to the United States, and all other powers interested in the freedom of the seas, that it should not be ratified by France. It was, of course, well known, that from the nature of their governments, the ratifications of Russia, of Austria, and of Prussia would not be withheld. But France being a constitutional monarchy, and public opinion operating powerfully there upon the administration, it was hoped the nation might be induced to act upon it, through the Chamber of Deputies. And it was obvious, from the state of the maritime world, that if France could be withdrawn from this confederacy, no new principle of public law could be created, to which she and the United States should enforce their sanction. A quintuple treaty would be dangerous, but a quadruple treaty would be without the least effect or influence. To produce, therefore, this result, was an object of the highest importance, and the American minister at Paris, finding himself without instructions from his government, had to depend upon his own resources, and to act upon his own responsibility. His operations were two-fold. First, to operate upon public sentiment, and then directly upon the government. His pamphlet upon the right of search was the measure he adopted to effect the first object, and his formal protest against the French ratification of the treaty, the second. The pamphlet was published in English, in French, and in German, and was distributed throughout Europe. Its effect is well known, and we need not dwell upon it here. The appeal, by protest, to the French Government, was successful. That paper has been published, and our readers have, no doubt, perused it. We shall not quote it, but briefly advert to its general spirit. It is a document truly American. The rights of our country are upheld with a proper resolution. While it is sufficiently respectful, it plainly warns the French Government of the position it will occupy if it sign the treaty. It remarks upon the moral effect which the treaty is intended to produce upon the United States, and observes, that it is not to be presumed that the five powers meditate a direct attack upon their independence. "But," it continues, "were it otherwise,—and were it possible they (the United States) might be deceived in this confident expectation, that would not alter in one tittle, their course of action. Their duty would be the same, and the same would be their determination to fulfil it. They would prepare themselves with apprehension indeed, but without dismay—with regret, but with firmness, for one of those desperate struggles which have sometimes occurred in the history of the world, but where a just cause and the favor of Providence have gained strength to comparative weakness, and have enabled it to break down the pride of power." It is further remarked that the construction which England assumed to put upon her duties, arising out of the slave trade treaties, to wit: to search the ships of all powers, is the subject which gives uneasiness to the United

States, and that of France sees her own duties in the same light, she, too, must pursue the same course, and in that event, it is significantly added, that "the United States will do to her as they will do to England, if she persist in this attack upon her independence."

We quote the concluding part of this paper, to show the responsibility and determination of the American minister.

"It is proper for me to add, that this communication has been made without any instructions from the United States. I have considered this case as one in which an American representative to a foreign power should act without awaiting the orders of his Government. I have presumed, in the views I have submitted to you, that I express the feelings of the American Government and people. If in this I have deceived myself, the responsibility will be mine. As soon as I can receive despatches from the United States in answer to my communications, I shall be enabled to announce to you, either that my conduct has been approved by the President, or that my mission is terminated."

The issue of this matter is before the world. France refused her ratification, and the quintuple treaty became a dead letter. England experienced the first great check which she had met with in her foreign policy for a quarter of a century; her subtle scheme to change the maritime code of nations to her own profit was stopped, an immediate war with her was probably averted, and if not, a series of aggravations was checked, which eventually would have led to a war, and the just influence of the United States was felt and acknowledged.

The overbearing arrogance of the English nation was never more strikingly exemplified than in the virulent abuse which their journals poured out upon the American minister upon this occasion. They seemed to consider his conduct as a personal matter, which gave every Englishman a right to abuse him. And this right was not sparingly exercised. We shall cull from the Washington Globe, where they were transferred for contempt and preservation, a few of these choice flowers of rhetoric.

The *Times* says,—“His (Gen. Cass’) protest is not less remarkable as a violation of all the customs of diplomatic intercourse, than for the bad reasoning and false assertions with which it abounds.” “It is as indecorous in its tone, as it is inconclusive in its argument.”

The *Herald* says,—“Rumors are afloat in well informed circles, that the French cabinet has at length received proof, that General Cass, the American minister in Paris, in protesting against the ratification of the slave trade treaty was only an instrument in the hands of M. Thiers, and of the opposition.”

The *London Examiner* says,—“General Cass may be useful in Paris as a pamphleteer, but as a diplomatic agent his occupation is gone. And the sooner he takes himself off, the better for the influence of his Government in Paris!”—*Very kind and disinterested advice.*

“They (the American people) have no sympathies with that mode of quarrelsome misrepresentation, of which General Cass afforded a somewhat clever and — a very clumsy exemplification.”—*Times.*

While our Minister was assailed abroad, there was not found wanting assailants in the public journals at home, to impugn his whole course in this matter. Among the most prominent of these, were the *National Intelligencer*, and the *New York American*. It is worth while, as a subject of history, to record the fact. Their objections seemed to be, that the proceeding was indecorous to the French; that it was an unjustifiable interference, because not directed by our own government, and that it was a violation of that established maxim of our foreign policy, which warns us from mixing ourselves in European combinations.

As to the first objection, it is now well known that those who took this side of the matter were more jealous of French honor, than the French government itself, for, it is believed, that it never intimated the slightest dissatisfac-

tion at the interference of the American Minister, but that its answer was altogether courteous and conciliatory.

And, with regard to the second—here again is a too sensitive jealousy for American honor, outrunning the government its natural depository; for the President in his last annual message has not only declared his approbation of the whole proceeding, but has farther declared that the view of the right of search taken in his message of 1841, was a sufficient authority to Gen. Cass for interference.

But the strangest objection of all was that it was an improper meddling with European policy. It would appear that nothing but the violence of party could put this construction upon an act so truly American and defensive. So far from being an attempt to interfere with European combinations, it was an attempt to prevent European combinations from interfering with us. Our Minister's application was founded upon the true *let alone policy*. He wished to detach an old friend from an alliance, or rather to prevent her from forming an alliance which threatened the greatest danger to our honor and interest. We suppose no man, not fit to occupy a mad house, will contend, that the warning of our Patriarchs against "entangling alliances," is intended to warn us against the use of proper measures to prevent such "alliances" from being formed with intentions hostile to us. A government at home, which would not adopt such measures, or a Minister abroad who would not faithfully give effect to them, would as surely as justly encounter the public indignation. But we shall not pursue this matter farther. Public opinion has passed upon the conduct of the Minister, and a British citizen will never violate the sanctuary of an American vessel without exciting the indignation of the American people.

THE END.





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